

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

TONEY AUNDRAY WASHINGTON

PLAINTIFF

v.

4:18cv00625-BSM-JJV

STEVE LOPEZ, Jail Administrator; and  
M. GEBHARDT, Lieutenant,  
Lonoke County Detention Center

DEFENDANTS

**PROPOSED FINDINGS AND RECOMMENDATIONS**

**INSTRUCTIONS**

The following recommended disposition has been sent to Chief United States District Judge Brian S. Miller. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in a waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a new hearing for this purpose before either the District Judge or Magistrate Judge, you must, at the time you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence to be proffered at the new hearing (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The details of any testimony desired to be introduced at the new hearing in the form

of an offer of proof, and a copy or the original of any documentary or other non-testimonial evidence desired to be introduced at the new hearing.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing. Mail your objections and "Statement of Necessity" to:

Clerk, United States District Court  
Eastern District of Arkansas  
600 West Capitol Avenue, Suite A149  
Little Rock, AR 72201-3325

### **DISPOSITION**

In August 2018, Toney Aundray Washington ("Plaintiff") filed a *pro se* Complaint, pursuant to 42 U.S.C. § 1983, alleging Defendants violated his constitutional rights while he was in the Lonoke County Detention Center. (Doc. No. 1.) In September 2018, I granted Plaintiff permission to proceed *in forma pauperis*, ordered service of the Complaint, advised Plaintiff of his obligation under Local Rule 5.5(c)(2) to maintain a current address with the Clerk of Court, and warned him that this case could be dismissed if he failed to respond to any communication from the Court within thirty days. (Doc. Nos. 8, 9.) Soon thereafter, Defendants filed an Answer, and I entered an Initial Scheduling Order setting discovery and motion deadlines. (Doc. Nos. 15, 17.) The Initial Scheduling Order, which was mailed to the last address provided by Plaintiff, was returned undeliverable. (Doc. Nos. 17, 18.) Accordingly, on October 15, 2018, I issued an Order giving Plaintiff thirty days to provide a valid service address and reminding him that the case would be dismissed if he did not timely do so. (Doc. No. 19.)

Plaintiff has not complied with my Order, and the time to do so has expired. This case cannot continue if Defendants and the Court have no way to communicate with Plaintiff.

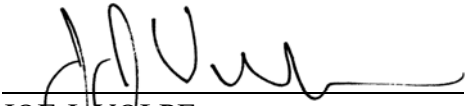
IT IS, THEREFORE, RECOMMENDED THAT:

1. The Complaint (Doc. No. 1) be DISMISSED without prejudice due to a lack of

prosecution.

2. The Court certify, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from an Order adopting this recommendation and the accompanying Judgment would not be taken in good faith.

Dated this 15th day of November, 2018.

  
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JOE J. VOLPE  
UNITED STATES MAGISTRATE JUDGE